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Proposed Counsel for Debtors and Debtors in Possession

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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In re:

EASY STREET HOLDING, LLC, *et al.*,

Address: 201 Heber Avenue  
Park City, UT 84060

Tax ID Numbers:

35-2183713 (Easy Street Holding, LLC),  
20-4502979 (Easy Street Partners, LLC), and  
84-1685764 (Easy Street Mezzanine, LLC)

)  
)  
)  
) Bankruptcy Case No. 09-29905  
) Jointly Administered with Cases  
) 09-29907 and 09-29908  
)

) Chapter 11  
)

) Honorable R. Kimball Mosier  
)

) **[FILED ELECTRONICALLY]**  
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**DEBTORS' PROPOSED AGENDA FOR MATTERS SCHEDULED FOR HEARING ON  
SEPTEMBER 16, 2009 AT 11:30 A.M. (MOUNTAIN TIME)  
(INCLUDING CERTAIN PROPOSED ORDERS)**

Easy Street Holding, LLC, Easy Street Mezzanine, LLC, and Easy Street Partners, LLC (the "Debtors") propose the following agenda for matters scheduled for hearing on September 16, 2009 at 11:30 a.m.

1. **Motion of Easy Street Partners, LLC for Interim and Final Orders (i) Authorizing Use of Cash Collateral Pursuant to 11 U.S. C. § 363 and Granting Adequate Protection to West LB, AG, and (ii) Scheduling a Final Hearing Pursuant to Bankruptcy Rule 4001(b) (the "Cash Collateral Motion") (Docket No. 9).**

Objection/Response Deadline: Given the timing of the filing of the Debtors' cases and the Cash Collateral Motion, parties in interest were given notice that objections should be filed and served at or before the time of the hearing.

Objections/Responses: As of the time of the filing of this agenda, no objections have been filed. However, it is anticipated that WestLB, AG may have objections. The Court has granted the request of West LB, AG, for telephonic appearance of Mr. Richard W. Havel of Sidley Austin, LLP. (Docket No. 16), with Annette W. Jarvis of Dorsey & Whitney appearing as local counsel. Bay North Capital, LLC has also requested a telephonic appearance for Mr. Brian W. Harvey of Goodwin Procter LLP, with Adelaide Maudsley and James K. Tracy appearing as local counsel.

Related Documents.

- Declaration of William Shoaf in Support of First-Day Motions filed September 14, 2009 (Docket No. 6).
- Debtors' Notice of Commencement of Bankruptcy Cases and Hearings on Various Motions and Applications for First Day Relief filed and served September 15, 2009 (the "Notice") (Docket No. 13).
- Certificate of Service, filed September 15, 2009 (Docket No. 18).

. Notice Given. A copy of the Cash Collateral Motion, along with the Notice, was served by email, hand delivery, or overnight delivery to (1) the United States Trustee, (2) the Debtor's prepetition secured lenders WestLB, AG, and BayNorth Realty Fund VI, Limited partnership, and their counsel; (2) the 20 largest unsecured creditors of each of the Debtors; and (3) federal and state taxing and regulatory authorities, including the U.S. Internal Revenue Service, the U.S. Securities and Exchange Commission, the Utah State Tax Commission, the Utah Department of Workforce Services.

Status: The Debtors and West LB, AG conferred on September 15, 2009 and September 16, 2009 to address the Cash Collateral motion. Counsel for the Debtors has briefly conferred with counsel for the United States Trustee. The Cash Collateral motion will go forward.

Proposed Order: A proposed order was submitted with the Motion, as required by Rule 4001(b)(1)(A). See Exhibit 1 to this Agenda. In the event a modified order is negotiated, it will be presented to the Court.

**2. Motion for an Order (1) Authorizing the Debtors to Pay Prepetition Wages, Salaries, and Employee Benefits; (2) Authorizing the Debtors to Continue the Maintenance of Employee Benefit Programs in the Ordinary Course; and (3) Directing all Banks to Honor Prepetition Checks for Payment of Prepetition Employee Obligations (the "Employee Motion") (Docket No. 11).**

Objection/Response Deadline: Given the timing of the filing of the Debtors' cases and the Employee Motion, parties in interest were given notice that objections should be filed and served at or before the time of the hearing.

Objections/Responses: As of the time of the filing of this agenda, no objections have been filed. The Court has granted the request of West LB, AG, for telephonic appearance of Mr. Richard W. Havel of Sidley Austin, LLP. (Docket No. 16), with Annette W. Jarvis of

Dorsey & Whitney appearing as local counsel. Bay North Capital, LLC has also requested a telephonic appearance for Mr. Brian W. Harvey of Goodwin Procter LLP, with Adelaide Maudsley and James K. Tracy appearing as local counsel.

Related Documents.

- Declaration of William Shoaf in Support of First-Day Motions filed September 14, 2009 (Docket No. 6).
- Debtors' Notice of Commencement of Bankruptcy Cases and Hearings on Various Motions and Applications for First Day Relief filed and served September 15, 2009 (the "Notice") (Docket No. 13).
- Certificate of Service, filed September 15, 2009 (Docket No. 18).

. Notice Given. A copy of the Employee Motion, along with the Notice, was served by email, hand delivery, or overnight delivery to (1) the United States Trustee, (2) the Debtor's prepetition secured lenders WestLB, AG, and BayNorth Realty Fund VI, Limited partnership, and their counsel; (2) the 20 largest unsecured creditors of each of the Debtors; and (3) federal and state taxing and regulatory authorities, including the U.S. Internal Revenue Service, the U.S. Securities and Exchange Commission, the Utah State Tax Commission, the Utah Department of Workforce Services.

Status: Counsel for the Debtors has briefly conferred with counsel for the United States Trustee. The Employee Motion will go forward.

Proposed Order: In the event the Employee Motion is granted, an order in the form submitted with this Agenda will be submitted to the Court. See Exhibit 2 to this Agenda.

**3. Motion for Order Pursuant to 11 U.S.C. § 366 (I) Prohibiting Utilities from Altering, Refusing or Discontinuing Services to, or Discriminating Against the Debtors; (II) Providing that a Single Deposit for all the Debtors' Utilities Shall Constitute "Adequate Assurance of Future Payment;" and (III) Establishing Procedures for Determining Requests for Additional Assurance (the "Utilities Motion") (Docket No. 10).**

Objection/Response Deadline: Given the timing of the filing of the Debtors' cases and the Cash Collateral Motion, parties in interest were given notice that objections should be filed and served at or before the time of the hearing. The Utilities Motion further contemplates that utilities objecting to the Debtors' proposed cash deposit will have an additional fourteen (14) days from receipt of the order granting the Utilities Motion to object, with a hearing to follow.

Objections/Responses: As of the time of the filing of this agenda, no objections have been filed. The Court has granted the request of West LB, AG, for telephonic appearance of Mr. Richard W. Havel of Sidley Austin, LLP. (Docket No. 16), with Annette W. Jarvis of Dorsey & Whitney appearing as local counsel. Bay North Capital, LLC has also requested a telephonic appearance for Mr. Brian W. Harvey of Goodwin Procter LLP, with Adelaide Maudsley and James K. Tracy appearing as local counsel.

Related Documents.

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- Debtors' Notice of Commencement of Bankruptcy Cases and Hearings on Various Motions and Applications for First Day Relief filed and served September 15, 2009 (the "Notice") (Docket No. 13).
- Certificate of Service, filed September 15, 2009 (Docket No. 18).

Notice Given. A copy of the Utilities Motion, along with the Notice, was served by email, hand delivery, or overnight delivery to (1) the United States Trustee, (2) the Debtor's

prepetition secured lenders WestLB, AG, and BayNorth Realty Fund VI, Limited partnership, and their counsel; (2) the 20 largest unsecured creditors of each of the Debtors; (3) federal and state taxing and regulatory authorities, including the U.S. Internal Revenue Service, the U.S. Securities and Exchange Commission, the Utah State Tax Commission, the Utah Department of Workforce Services; and (4) to each of the utilities identified in the Utilities Motion.

Status: Counsel for the Debtors has briefly conferred with counsel for the United States Trustee. The Utilities Motion will go forward.

Proposed Order: In the event the Utilities Motion is granted, an order in the form submitted with this Agenda will be submitted to the Court. See Exhibit 3 to this Agenda.

**4. Motion for an Order Extending Time to File Schedules and Statements (the “Extension Motion”) (Docket No. 12).**

Objection/Response Deadline: Given the timing of the filing of the Debtors’ cases and the Cash Collateral Motion, parties in interest were given notice that objections should be filed and served at or before the time of the hearing.

Objections/Responses: As of the time of the filing of this agenda, no objections have been filed. The Court has granted the request of West LB, AG, for telephonic appearance of Mr. Richard W. Havel of Sidley Austin, LLP. (Docket No. 16), with Annette W. Jarvis of Dorsey & Whitney appearing as local counsel. Bay North Capital, LLC has also requested a telephonic appearance for Mr. Brian W. Harvey of Goodwin Procter LLP, with Adelaide Maudsley and James K. Tracy appearing as local counsel.

Related Documents.

- Declaration of William Shoaf in Support of First-Day Motions filed September 14, 2009 (Docket No. 6).

- Debtors' Notice of Commencement of Bankruptcy Cases and Hearings on Various Motions and Applications for First Day Relief filed and served September 15, 2009 (the "Notice") (Docket No. 13).
- Certificate of Service, filed September 15, 2009 (Docket No. 18).

Notice Given. A copy of the Extension Motion, along with the Notice, was served by email, hand delivery, or overnight delivery to (1) the United States Trustee, (2) the Debtor's prepetition secured lenders WestLB, AG, and BayNorth Realty Fund VI, Limited partnership, and their counsel; (2) the 20 largest unsecured creditors of each of the Debtors; and (3) federal and state taxing and regulatory authorities, including the U.S. Internal Revenue Service, the U.S. Securities and Exchange Commission, the Utah State Tax Commission, the Utah Department of Workforce Services.

Status: Counsel for the Debtors has briefly conferred with counsel for the United States Trustee. The Extension Motion will go forward.

Proposed Order: In the event the Extension Motion is granted, an order in the form submitted with this Agenda will be submitted to the Court. See Exhibit 4 to this Agenda.

DATED: September 16, 2009

DURHAM JONES & PINEGAR, P.C.

By: /s/ Steven J. McCardell  
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Steven J. McCardell (smccardell@djplaw.com)(2144)  
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And

Michael V. Blumenthal (mblumenthal@crowell.com)

(pro hac vice application pending)

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Proposed Counsel for Debtors and Debtors in  
Possession



**EXHIBIT 1**  
**(Form of Interim Order on Cash Collateral Motion)**

Proposed order prepared and submitted by:

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Proposed Counsel for Debtors and Debtors in Possession

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re:	)	
	)	
EASY STREET HOLDING, LLC, <i>et al.</i> ,	)	Bankruptcy Case No. 09-29905
	)	Jointly Administered with Cases
Debtors.	)	09-29907 and 09-29908
	)	
Address: 201 Heber Avenue	)	Chapter 11
Park City, UT 84060	)	
	)	Honorable R. Kimball Mosier
Tax ID Numbers:	)	
35-2183713 (Easy Street Holding, LLC),	)	
20-4502979 (Easy Street Partners, LLC), and	)	
84-1685764 (Easy Street Mezzanine, LLC)	)	

**[PROPOSED] INTERIM ORDER ON MOTION OF EASY STREET PARTNERS, LLC  
FOR INTERIM AND FINAL ORDERS (I) AUTHORIZING USE OF CASH  
COLLATERAL PURSUANT TO 11 U.S.C. § 363 AND GRANTING ADEQUATE  
PROTECTION TO WEST LB, AG, AND (II) SCHEDULING A FINAL HEARING  
PURSUANT TO BANKRUPTCY RULE 4001(b)**

On September \_\_, 2009, the Motion of Easy Street Partners, LLC ("Partners" or the "Debtor"), for entry of an Interim Order: (i) authorizing the Debtor, pursuant to sections 105 and 363 of the United States Bankruptcy Code, to use cash collateral, including immediate access to, and utilization of, the Partners' Real Estate Sale Accounts (as defined in the Motion), and to grant adequate protection to the Debtor's prepetition lender West LB, AG; (ii) scheduling a final hearing (the "Final Hearing") on the Debtor's use of cash collateral and approving notice with respect thereto; and (iii) pending the Final Hearing, authorizing the Debtor to use cash collateral, including funds contained in the Partners' Real Estate Sale Accounts, on an interim basis in amounts as may be necessary to prevent immediate and irreparable harm to the Debtor's estate (the "Motion"), came before the Court for hearing. Appearances were made as noted on the record of the hearing. The Court made its findings and conclusions on the record of the hearing, which findings and conclusions are incorporated into this Order by this reference.

Now, therefore, IT IS HEREBY ORDERED:

1. The Motion is granted as set forth herein.
2. The Debtor is hereby authorized to use cash collateral (whether held in restricted accounts or otherwise) through and including the date of the final hearing on the Motion in accordance with the budget submitted with the Motion and subject to the terms of this Order.
3. The following adequate protection is provided to West LB, AG to secure all amounts used by the Debtor pursuant to this Order and otherwise to protect West LB, AG's interest in property:

a. West LB, AG, is granted a replacement lien in any postpetition revenues generated in connection with the continued operation of the Debtor's property, to the same extent, and with the same validity and priority, held by West LB, AG's prepetition lien.

b. The Debtor shall pay to West LB, AG its portion of unit sales, as required by the Debtor's agreements with West LC.

c. The Debtor shall continue to adhere to all reporting requirements under its loan documents with West LB, AG.

d. The Debtor shall continue to maintain West LB, AG's collateral, including by paying insurance thereon, subsequent to the date of the filing of the Debtor's Chapter 11 petition.

4. A final hearing on the Motion shall be held on \_\_\_\_\_, 2009, at  
\_\_\_\_:\_\_\_\_.m.

-----END OF ORDER-----

## **EXHIBIT 2**

### **(Form of Order on Employee Motion)**

Order prepared and submitted by:

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Proposed Counsel for Debtors and Debtors in Possession

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re:

EASY STREET HOLDING, LLC, *et al.*,

Address: 201 Heber Avenue  
Park City, UT 84060

Tax ID Numbers:

35-2183713 (Easy Street Holding, LLC),  
20-4502979 (Easy Street Partners, LLC), and  
84-1685764 (Easy Street Mezzanine, LLC)

Bankruptcy Case No. 09-29905  
Jointly Administered with Cases  
09-29907 and 09-29908

Chapter 11

Honorable R. Kimball Mosier

**ORDER (1) AUTHORIZING EASY STREET PARTNERS, LLC TO PAY PREPETITION WAGES, SALARIES, AND EMPLOYEE BENEFITS; (2) AUTHORIZING EASY STREET PARTNERS, LLC TO CONTINUE THE MAINTENANCE OF EMPLOYEE BENEFIT PROGRAMS IN THE ORDINARY COURSE; AND (3) DIRECTING ALL BANKS TO HONOR PREPETITION CHECKS FOR PAYMENT OF PREPETITION EMPLOYEE OBLIGATIONS**

The “Motion for Order (1) Authorizing Easy Street Partners, LLC to Pay Prepetition Wages, Salaries, and Employee Benefits; (2) Authorizing Easy Street Partners, LLC to Continue the Maintenance of Employee Benefit Programs in the Ordinary Course; and (3) Directing All Banks to Honor Prepetition Checks for Payment of Prepetition Employee Obligations” (the “Motion”), filed on September 15, 2009 by Easy Street Partners, LLC (“Partners”), debtor and debtor in possession in the above-captioned cases (the “Debtor”), came on for hearing on September 16, 2009. Appearances were made as noted on the record for the hearing. The Court made its findings and conclusions on the record of the hearing, which findings and conclusions are incorporated herein by this reference. Now, therefore,

IT IS HEREBY ORDERED:

1. The Motion is granted;
2. Partners is authorized (but not required), in its sole discretion, to pay prepetition obligations owed to its employees, including payroll and reimbursement requests;
3. Partners is authorized (but not required) to honor, in the ordinary course of business, existing employee benefit plans and programs (including all related costs and

expenses), even if such involve payment or honoring of prepetition claims;

4. Partners is authorized (but not required) to cause any prepetition checks given to employees to be honored and to issue new checks to replace any dishonored checks;

5. No employee of Partners shall receive more than \$10,950.00 in the aggregate on account of claims under 11 U.S.C. §§ 507(a)(4) and (a)(5).

6. Nothing herein shall be deemed or construed to constitute an express or implied assumption of any agreement or liability.

-----END OF ORDER-----



**EXHIBIT 3**  
**(Form of Order on Utilities Motion)**

Order prepared and submitted by:

Kenneth L. Cannon II ([kcannon@djplaw.com](mailto:kcannon@djplaw.com)) (3705)

Steven J. McCardell ([smccardell@djplaw.com](mailto:smccardell@djplaw.com)) (2144)

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Proposed Counsel for Debtors and Debtors in Possession

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re:

EASY STREET HOLDING, LLC, *et al.*,

Address: 201 Heber Avenue  
Park City, UT 84060

Tax ID Numbers:

35-2183713 (Easy Street Holding, LLC),  
20-4502979 (Easy Street Partners, LLC), and  
84-1685764 (Easy Street Mezzanine, LLC)

Bankruptcy Case No. 09-29905  
Jointly Administered with Cases  
09-29907 and 09-29908

Chapter 11

Honorable R. Kimball Mosier

**ORDER GRANTING MOTION FOR ORDER PURSUANT TO 11 U.S.C. § 366  
(I) PROHIBITING UTILITIES FROM ALTERING, REFUSING OR  
DISCONTINUING SERVICES TO, OR DISCRIMINATING AGAINST THE  
DEBTORS; (II) PROVIDING THAT A SINGLE DEPOSIT FOR ALL THE  
DEBTORS' UTILITIES SHALL CONSTITUTE "ADEQUATE ASSURANCE OF  
FUTURE PAYMENT"; AND (III) ESTABLISHING PROCEDURES  
FOR DETERMINING REQUESTS FOR ADDITIONAL ASSURANCE**

The "Motion for Order Pursuant to 11 U.S.C. § 366 (I) Prohibiting Utilities from Altering, Refusing, or Discontinuing Services to, or Discriminating Against the Debtors; (II) Providing that a Single Deposit for All the Debtors' Utilities Shall Constitute 'Adequate Assurance of Future Payment'; and (III) Establishing Procedures for Determining Requests for Additional Assurance" (the "Motion"), filed on September 15, 2009 by Easy Street Partners, LLC ("Partners"), Easy Street Mezzanine, LLC ("Mezzanine") and Easy Street Holding, LLC ("Holding"), debtors and debtors in possession in the above-captioned cases (collectively, the "Debtors"), came on for hearing on September 16, 2009. Appearances were made as noted on the record of the hearing. The Court made its findings and conclusions on the record of the hearing, which findings and conclusions are incorporated herein by this reference. Now, therefore,

**IT IS HEREBY ORDERED:**

1. The Motion is granted.
2. The Utilities (as such term is defined in the Motion) are prohibited from altering, refusing, discontinuing service to, or discriminating against, the Debtors based on the

commencement of these cases, or any prepetition debt.

3. The Debtors' creation of a segregated account (the "Account") in favor of the Utilities funded with an amount equal to \$24,092 provides the Utilities "adequate assurance of payment" within the meaning of Bankruptcy Code section 366. The amounts in the Account shall be allocated to the Utilities in the amounts set forth in Exhibit "A" to this Order.

4. In the event the Debtors determine that there is an additional Utility that should be listed on Exhibit "A", the Debtors shall serve the newly discovered Utility (the "New Utility") with a copy of the order granting this Motion by electronic mail or overnight mail.

5. In the event a New Utility seeks additional assurance, it must file with the Court and serve an Objection within fourteen (14) days receipt of the Order approving the Motion sent by the Debtors pursuant to paragraph 4. Such New Utility shall be deemed to have been provided with adequate assurance of payment in accordance with Bankruptcy Code section 366, without the need of an additional deposit or other security, until an order of the Court to the contrary is entered.

6. A Utility that objects to the Court's determination that the Debtors have provided adequate assurance must file an objection (the "Objection") that sets forth the average monthly usage for the most recent twelve (12) month period, the prepetition amount alleged to be due and owing, and the amount of any deposit made by the Debtors prior to September 14, 2009.

7. The Utility must contact the Court to set a hearing on the Utility Objection,

which hearing shall be set no earlier than fifteen (15) days after the Objection was filed.

8. The relief requested in this Motion is without prejudice to the rights of any Utility not on Exhibit "A" to apply on a timely basis to this Court for additional assurances of payment.

-----END OF ORDER-----

**EXHIBIT A**  
**UTILITY LIST**

<b><u>Vendor</u></b>	<b><u>Services Provided</u></b>	<b><u>Address</u></b>	<b><u>Average Monthly Cost</u></b>
AT&T Mobility	Phone	AT&T Mobility PO Box 6463 Carol Stream, IL 60197	\$426.00
Comcast	Cable	Comcast PO Box 34744 Seattle, WA 98124-1744	\$1,132.00
Park City Municipal Corp.	Water	Park City Municipal Corp. PO Box 1480 Park City, UT 84060	\$367.00
Park City Water	Water	Park City Water PO Box 1480 Park City, UT 84060	\$922.00
Questar Gas Company	Gas	Questar Gas Company PO Box 45360 Salt Lake City, UT 84145-03630	\$8,520.00
Qwest	Phone	Qwest PO Box 29039 Phoenix, AZ 85038-9039	\$2,554.00
Rocky Mountain Power	Electricity	Rocky Mountain Power 1033 NE 6 <sup>th</sup> Avenue Portland, OR 97256-0001	\$8,596.00
Water Reclamation District	Sewer	Water Reclamation District 2800 Homestead Rd Park City, UT 84098-4869	\$1,575.00
			\$24,092.00

# **EXHIBIT 4**

## **(Form of Order on Extension Motion)**

*Order prepared and submitted by:*

Kenneth L. Cannon II ([kcannon@djplaw.com](mailto:kcannon@djplaw.com)) (3705)  
Steven J. McCardell ([smccardell@djplaw.com](mailto:smccardell@djplaw.com)) (2144)  
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Proposed Counsel for Debtors and Debtors in Possession

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re:	)	
	)	
EASY STREET HOLDING, LLC, <i>et al.</i> ,	)	Bankruptcy Case No. 09-29905
	)	Jointly Administered with Cases
	)	09-29907 and 09-29908
	)	
Address: 201 Heber Avenue	)	Chapter 11
Park City, UT 84060	)	
	)	Honorable R. Kimball Mosier
Tax ID Numbers:	)	
35-2183713 (Easy Street Holding, LLC),	)	
20-4502979 (Easy Street Partners, LLC), and	)	
84-1685764 (Easy Street Mezzanine, LLC)	)	
	)	

**ORDER EXTENDING TIME TO FILE SCHEDULES AND STATEMENTS**



The “Motion for Order Extending Time to File Schedules and Statements” (the “Motion”), filed on September 15, 2009 by Easy Street Partners, LLC (“Partners”), Easy Street Mezzanine, LLC (“Mezzanine”), and Easy Street Holding, LLC (“Holding”), debtors and debtors in possession in the above-captioned cases (collectively, the “Debtors”), came on for hearing on September 16, 2009. Appearances were made as noted on the record of the hearing. The Court made its findings and conclusions on the record of the hearing, which findings and conclusions are incorporated herein by this reference. Now, therefore,

IT IS HEREBY ORDERED:

1. The Motion is granted.
2. The deadline for all Debtors to file their Schedules and Statements is extended to October 15, 2009, without prejudice to the Debtors’ right to seek any further extensions from this Court, or to seek a waiver of the requirement to file certain Schedules and Statements.

-----END OF ORDER-----